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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,818	06/28/2000	Jay S. Walker	00-001	5370
22927	7590	11/28/2006		
WALKER DIGITAL 2 HIGH RIDGE PARK STAMFORD, CT 06905			EXAMINER FADOK, MARK A	
			ART UNIT 3625	PAPER NUMBER
DATE MAILED: 11/28/2006				

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09-605-818

EXAMINER
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ART UNIT	PAPER
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20061117

DATE MAILED:

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**Commissioner for Patents**

Attached please find Form PTO 892 and definition of comparative sales from Barron's Dictionary of Real estate terms.

### **Supplemental Examiner's Answer**

This Office Action is in response to the BPAI's "Order Returning Undocketed Appeal To Examiner", mailed October 24, 2006. This Office Action is a Supplement to the Examiner's Answer mailed June 15, 2006 and is in response to Appellant's Reply Brief received August 15, 2006.

The reply brief filed 8/15/2006 has been entered and considered. Due to the entry of a substantial number of new arguments, the examiner is compelled to provide this Supplemental Examiner's Answer to address the new arguments. Applicant has 2 months in which to respond to this Office Action with a new Reply Brief.

### **Examiner Remarks to Reply Brief**

The examiner has carefully considered appellant's remarks in the Reply Brief filed 8/15/2006 and provides the following comments:

**I. No New Grounds for Rejection:** The examiner acknowledges applicant's statement that the USC 101 rejection has been removed and that no new grounds of rejection were presented by the examiner.

**II. Appellant's invention:** Appellant remarks that the examiner has unduly limited appellant's invention. After review of this subject comment in the Examiner's Answer on page 7, first paragraph, the examiner withdraws these remarks as being immaterial to the patentability issue at hand.

### **III Improper Official Notice/ Personal Knowledge:**

In regards to appellant's request for evidence regarding Official Notice/ Personal Knowledge, the examiner states that he intended neither, but merely was attempting to clarify what types of sales were included in Lough's "comparable sales". To resolve this issue of whether the term "comparables" as used in Lough contain properties that are already sold; the examiner offers the Appellant the following definition from **BARRONS Real Estate Guides, Dictionary of Real Estate Terms, second edition, 1987 (see attached excerpt)**. It is further noted that applicant's specification does not define this term, therefore the examiner offers the ordinary meaning of the term resolved to its broadest reasonable interpretation.

**COMPARABLES: Properties that is similar to the one being sold or appraised. See market approach.**

**Example: a subject property in a detached, 3-bedroom house that is 30 years and will be bought with an FHA loan. Comparables would be recently sold houses with similar styling age location and financing. Slight variations in characteristics may be taken into account when making the analysis.**

Based on this definition and its use in Lough, the examiner contends that Lough clearly teaches using properties that have already been sold.

In regards to appellant's interpretation of the meaning of the teachings of Lough on page 5 paragraph 1 of appellant's reply; the examiner disagrees with the appellant's definition and notes that the discussion of the data being input in Lough does not limit the data searched in the MLS to only houses that are not sold.

### **IV Still no motivation to combine**

Appellant argues once again the meaning of comparables in Lough. The examiner directs appellant's attention to the discussion supra.

**V Features Recited by the pending claims.**

Appellant states that the examiner is reading the term "redemption" out of the pending claims. The examiner disagrees and directs the appellant's attention to the final rejection, which clearly addresses the issue of redemption. The examiner further disagrees with appellant's definition of "redemption" that is provided on page 23, para 1 of appellant's appeal brief filed dated 3/9/2006 which states "redemption" as gleaned from the specification "...is associated with taking possession of the product by the customer who has already paid for the product". The examiner has carefully read applicant's specification and could not find support for the product being prepaid. Rather page 6, lines 10-20 discuss the product being sold through an agreement, but not being fully paid for before redemption. Further, appellant's specification page 8, line 33 states the following:

"The redemption information transmitted to the controller 200 may include information specifying a particular product redeemed, a quantity of the product redeemed, a location at which the redemption took place, a retailer at which the redemption took place, a date on which the redemption took place, a time at which the redemption took place, a retail price of the redeemed product at the time the redemption took place, an amount of time required to complete the redemption, weather conditions at the time of the redemption, the name of a retailer employee assisting with the redemption, a type of product redeemed (e.g. gasoline), a total amount of money charged to the customer by the retailer..." (page 8, lines 30-33 and page 25, lines 20-33).

This excerpt clearly associates redemption with a payment after the product the is redeemed, which is the process flow that occurs in a real estate transaction.



Mark Fadok

Primary Examiner



Jeffrey A. Smith

SPE AU 3625



WYNN W. COGGINS  
TECHNOLOGY CENTER DIRECTOR

Wynn Coggins

Director TC 3600